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Mine Reclamation Conference

Max S. Baucus

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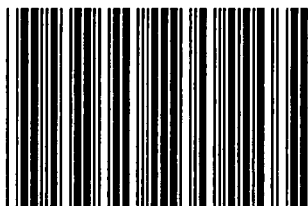
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(2) Subject* **Mine Reclamation Conference**

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BAUCUS

Remarks of Senator Max Baucus
Mine Reclamation Conference

August 10, ~~1994~~ 1995

Good morning. I'd like to welcome you all to Fairmont -- and I wish I was there myself.

I remember the last Conference very well. It was a year ago, less one day, and outside it was even hotter. The difference is, last year I had to appear on videotape. But with technology marching ahead, we are live and I'm ready for the toughest questions you've got.

Technology is marching ahead, and all of you are helping to push it. But some things seem to be stuck in reverse.

Here's an example that should concern all of us. Last year, I remember I spent a lot of time talking about Superfund. And I was pretty optimistic. We had a good, consensus reform bill to speed up cleanups, cut costs and paperwork, and make the whole thing more sensible. We had support from scientists, from state and local governments, from business and from environmental group. So I predicted great things.

Well, my predictions don't always come true. Not only did we not get a reform bill, it is very possible that the whole program will become dramatically worse than it already is.

SUPERFUND "REFORM" IN THE NEW CONGRESS

Let me tell you what I mean. A few weeks ago, the new Chairman of the Subcommittee responsible for Superfund came out with a set of so-called "reform" principles. Briefly speaking, they are the following three points:

1. Repeal "retroactive liability" -- that is, eliminate the requirement that requires the big companies responsible for sites like the Clark Fork to pay for cleaning up the mess.
2. Abolish all "Natural Resource Damage" claims against companies for damage they created before 1980, thus cancelling Montana's \$650 million claim against the ARCO company for restoring the water resources along the Clark Fork and Silver Bow Creek.
3. Impose a new set of cost-benefit analysis and risk assessment requirements, so that the EPA has to go back and re-study most or all of the current Superfund operations. On the Clark Fork, the studies have already cost us \$50 million.

The House of Representatives has decided to pile on a fourth so-called "reform." That is, it will cut the money for Superfund by about a third, from \$1.4 billion next year to \$1 billion. Because of this, several hundred hazardous waste sites around the country, including the Streamside Tailings on Silver Bow Creek, the Idaho Pole site near Bozeman, and the Montana Pole in Butte, will stop in their tracks.

THE OTHER OPTION

Well, let's start with that last point. Because if we simply refuse to spend money on cleaning up sites, all the legal reforms in the world aren't going to do any good.

We do have to cut spending. But I don't believe we have to do it at the expense of hazardous waste cleanup. It is unfair to all of you who have put so much time and work into finding innovative ways to clean up sites, and who are creating jobs and growth in our communities. And of course, it is even more unfair to people who live by the sites, because of the threats to public health and safety they create.

Many other places that could be cut -- which deserve to be cut -- are getting a free ride. For instance, we are spending \$6 million to broadcast television programs to Cuba -- mostly duplicates of the news that already appears on commercial TV, plus reruns of old sit-coms like "Laverne and Shirley."

We are giving the Defense Department an extra \$60 million for blimps.

And another \$12 million goes to NASA for the "Search for Extraterrestrial Intelligence."

So, yes, money is scarce. But we are putting a whole lot of it in the stratosphere and outer space, where it isn't doing much good for anyone here on Earth. I think we can do better.

All this is still in the early stages. The House has passed its funding bill, but the Senate probably won't pick it up until sometime in September. And as it goes ahead, you can bet I'll be fighting to restore as much of it as I can.

SUPERFUND

Then let's move on to real reform of Superfund.

We know what is wrong. And really, fixing it is not all that complicated. Nothing so complex as the work all of you do every day.

Basically, there are too many lawsuits, too many studies, and too little cleanup. We must stop the bickering, stop the unnecessary litigation and get the sites finished as quickly as we can.

That means, to begin with, that Superfund must give people incentives to settle their differences quickly and get to work. When as much as 30 cents out of every dollar is spent on litigation, something is drastically wrong.

Next, we must make Superfund more fair, especially to those small businesses who contributed little to polluted sites and now find themselves legally targeted by big corporations that want to get out of paying their fair share.

We must also set realistic expectations, especially when it comes to site clean up. Some sites need to be as clean as they can possibly be -- for example, if children are going to be swimming and fishing in a stream. Others, if they're going to industrial uses, don't need that standard.

And finally, we must guarantee the public's right to participate early in the Superfund process. Both to make sure the cleanup meets the community's needs, and to take advantage of the community's ideas. A few miles up the road in Anaconda, those of you who like to golf will soon be able to tee up on an old mining site.

RETROACTIVE LIABILITY

These are consensus reforms. Last year we had an extraordinary coalition -- community groups, Fortune 500 companies, environmental groups, small business -- endorsing them. That was a big achievement. I had hoped we could move quickly on it this year and get the job done.

Unfortunately, some people got greedy. The proposal to repeal "retroactive liability" is the perfect example.

Retroactive liability is a fancy lawyer's term. But it is a simple principle. It says that you are responsible for the mess you create. You cannot fob it off on the taxpayers. If you are responsible for a mess, you pay to clean it up.

Repealing it isn't going to make cleanups any faster or cheaper. It will do one of two things. First of all, we could simply give up on the sites completely. Otherwise, the costs will shift. The big companies will get off the hook, and middle-class taxpayers will have to foot the bill instead.

At the same time, it will mean a new generation of lawsuits.

The companies which stepped up to the plate and accepted their responsibility will feel they've been cheated. And they will sue to recoup their costs. In the meantime, cleanups will slow down or stop completely.

And that would be ridiculous. The Clark Fork, for example, was named a Superfund site way back in 1982. With the enlargement in 1987, it has twenty-three priority sites. And only two of them are cleaned up. There have been years of hearings, studies and lawsuits -- everything but cleanups.

And although that is the biggest example, it is just one of many. In the West, we have about fifteen thousand mine sites, all of which need cleanups that will cost us a million or more dollars apiece. The top fifty, which are already Superfund sites, will cost us between \$250 and \$350 million apiece. And the taxpayers will get stuck with almost all of it, if we really do go ahead and repeal retroactive liability.

Ultimately, if the dark stars come into alignment and all the present "reform" proposals go ahead, Congress will let the big companies off the hook for retroactive liability and natural resource damage. At the same time, it will gut the federal contribution. So Montana taxpayers will have to pay for the worst sites, and everything else will just continue to fester.

CONCLUSION

But then, my optimistic forecasts of last year didn't pan out. And this one won't either, if I have anything to say about it. And I believe that when right and wrong are as clear as they are on this issue, right will win.

And I'll cut it off here, because we do have this miracle of technology and I want to hear your views. So let's hear what you're up to now, and if you've got some tough questions, let me hear them.